LITTLE BLUE BOOK NO. 884
Edited by E. Haldeman-Julius

Debate On Prohibition

Clarence Darrow
NEGATIVE

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Introduction by Hon. Royal S. Copeland

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CLARENCE DARROW

JOHN HAYNES HOLMES

INTRODUCTION

THE TEMPORARY CHAIRMAN (Mr. Benjamin A. Javits):

Ladies and Gentlemen: It is usual for a Temporary Chairman to break the ice, to use a vernacular. On this occasion that duty is particularly appropriate, not alone because prohibition is the subject of the debate but because the contestants have it in them to make things very warm.

We have on the platform three prohibition agents, one representing the church, which usually starts by saying, "Thou shalt not"; one an officer of the court, which usually begins by saying, "Thou shalt not," and one representing the medical profession and legislature, which latter is a factory exclusively manufacturing "Thou shalt nots." So that it will be very interesting to see two prohibition agents having a set-to and a third one as umpire, who, fortunately, is a doctor. (Laughter.)

But, seriously, there is a great issue involved, which I am sure you will hear a great deal about, and that is whether the state, this nation, having a democratic form of government, has a right by legislation to regulate the private life of each person living under its flag. The issue is not confined to liquor alone. The Eighteenth Amendment indicates a trend on the part of governments, or on the part of government, through its legislatures, to take from individuals their liberty. This matter is a most interesting phase of human development, particularly here in the United States.

And for that reason, as well as for a great many others, I am sure you will be glad to hear from the Chairman of this debate, who is the United States Senator from New York. Doctor Copeland made a living institution of our local Board of Health and is recognized as not only a scientist of note but an able and progressive legislator. He is particularly fitted for the Chairmanship of this debate, and I am certain that we all are awaiting his words with keen interest. I take pride in presenting to you Dr. Royal S. Copeland, your Chairman. (Applause.)

THE CHAIRMAN (Hon. Royal S. Copeland): Mr. Chairman, Mr. Darrow, Dr. Holmes, Ladies and Gentlemen: The Chairman has been good enough to refer to the Congress as a manufactory. I have sometimes thought that the output was pretty small. (Laughter.)

But when we are not considering the general question of prohibition and its effect upon the people, we are jesting about the use of liquor. One of the Senators told me the other day that he was just back from Arkansas, and after traveling around the state he found that the roads were in a terrible condition. And he said to one of the natives, "You have terrible roads here." "Yes," he said, "we have, but they are worse in winter." "Well," the Senator said to him, "you must have difficulty about getting in the necessities of life." He said, "We do, and half the time when we do get them in, we can't drink them." (Laughter.)

But, seriously, America has had many heated political campaigns and many debates which have resulted in the division of public opinion. But I want to say, to the honor of America, that these debates and these campaigns never result in anything worse than vocal con-

tests. It is rare, indeed, that we throw any brickbats or ancient eggs or resort to physical violence in our debates.

And so we are going to have a debate today on a subject which divides the American people. I doubt if any question since the abolition of slavery has so engrossed the thought of the American people as this question of prohibition. Wherever you have any other question under debate, any other public question, you find a majority of the people neutral or disinterested and they may even be bored by any reference to the subject. But no matter where the subject of prohibition is concerned, whether it is in a Congress or in a church or on a street corner or in this great Opera House, you find assembling together a multitude of people, and every person present with some more or less fixed idea about the rights and wrongs of this great subject.

Now, with all deference to the very able and eloquent speakers of the day—men of great ability and of great persuasive power—I venture to say that very few opinions will be changed in this audience. (Laughter.) We have crystallized our thought on the subject. There may be intellectual conviction today, but the heart will remain the same. And "the man convinced against his will is of the same opinion still," I heard.

A very interesting thing I have discovered about the subject of prohibition is that the practice of the individual has very little to do about his conviction on the subject. (Laughter.) Some of the most ardent prohibitionists I ever met discuss the subject with greatest eloquence in the presence of a mint julep. Of course, Doctor Holmes, I don't refer to you. (Laughter.) And, likewise, some of those who

are very much opposed to the Eighteenth Amendment, or the Volstead Act, are personally dry—and I assume that Mr. Darrow is. (Laughter.)

So we have here today this very interesting question to be presented by these able advocates. And it speaks well for us that we can gather here together, no matter what our individual opinions may be, and listen to the arguments put forward. And I take it that the purpose of the debate is not to change opinion, but to make clear to both sides in this controversy that the men and women on each side of it are honest in their conviction. So we are going to have a debate today of two able, honest men. Each will present his particular view of this question in controversy.

Now, the order of the procedure is as follows: First, the subject to be debated is, "Resolved, That the United States Should Continue the Policy of Prohibition As Defined in the Eighteenth Amendment." Mr. Darrow takes the negative. Dr. Holmes takes the affirmative. And in the arrangement, Dr. Holmes will speak for thirty-five minutes presenting his side of this subject. He will be followed by Mr. Darrow, who will speak for forty minutes, presenting his side of the subject. Then Dr. Holmes, in refutation, will have fifteen minutes. Mr. Darrow will follow with twenty minutes. And then the closing rebuttal will be made by Dr. Holmes— he having ten minutes for that purpose.

The Chairman will undertake to keep the peace (laughter) and to make record of the time. And five minutes before the expiration of the presentations of the subject, the Chairman will indicate that five minutes remain to finish the presentation; and then for the later

refutations and rebuttals, perhaps, three minutes' notice will be given.

I do not need to introduce to a New York audience Dr. John Haynes Holmes, one of our most popular pastors and one of our outstanding citizens. Dr. Holmes, you will have thirty-five minutes to present the affirmative. (Applause.)

DEBATE ON PROHIBITION

AFFIRMATIVE PRESENTATION ADDRESS

DR. JOHN HAYNES HOLMES: Mr. Chairman, Mr. Darrow, Ladies and Gentlemen: It is evident enough that we have started our debate this afternoon in excellent spirits upon both sides, and it is my wish and hope that we shall end in exactly the same spirit.

I must confess to you, however, that I stand upon this platform this afternoon in a good deal of trepidation. Ordinarily, I stand upon a platform and harangue the folks with great happiness. That is my job, and I enjoy it thoroughly. But this afternoon I have some kind of a suspicion that a considerable portion of this audience in New York City will not be altogether sympathetic with the kind of argument that I am going to present. And, you know, that is a rather unusual experience for a man who stands up in a pulpit every week and talks to a convinced and converted audience. (Laughter.)

In the second place, I am entirely conscious of the antagonist that I have to meet on the field of battle this afternoon. When I look back upon Mr. Darrow's distinguished legal record of twenty or thirty years, or more, when I remember how long he has been standing in courts of law defending his clients, when I remember his great experience in New York itself upon platforms of debate, I confess to you that I feel "kind of scared."

All the strength that I can get as I enter upon the discussion of this question comes from my sincere conviction that there is justice in my cause. (Applause.) Consequently, I launch out upon the discussion of prohibi-

tion with the sentiment so well laid down by William Shakespeare in the last act of Macbeth, "Lay on, MacDuff, and damned be he who first cries hold, enough." (Laughter.)

The affirmative in a debate works under the very serious disadvantage of being obliged to state its case without having any knowledge at all as to just what the negative is going to do with it. I shall be before you this afternoon for a period of thirty-five minutes, plus forty minutes, which is seventy-five minutes, before I have any chance at all to get back at Mr. Darrow. He has a chance, however, to get back at the affirmative after thirty-five minutes of the debate. On the other hand, the affirmative acts on the basis of the very important advantage of being able to define the question under discussion and, in a way, to choose the weapons and to pick out the field of conflict.

At the outset, therefore, of what I have to say to you this afternoon, I want to say just a few words as to the character and the meaning of the question which we are to discuss this afternoon. I would emphasize two points.

First, as I understand it, we are discussing the policy of prohibition from the standpoint of the Eighteenth Amendment to the Constitution, and not from the standpoint of the Volstead Act. I am ready to assume, from the very drop of the hat, that the Volstead Act is unwise and ineffective and is not a success. I shall simply decline to discuss at all the policy of enforcement under the Volstead Act, but shall confine everything that I have to say this afternoon to the Eighteenth Amendment to the Constitution as a policy which should be con-

tinued by one form of legislation or another into the future.

In other words, I want to make it plain that we are discussing this afternoon not a specific method of enforcement at all. We are discussing a policy of social procedure, long sanctioned by public usage and sustained by social precedent and social example. We are thus discussing, it seems to me, something that is much larger than what is commonly known as the liquor question. For prohibition is a policy which has had the support of democratic governments for I know not how many years in the past, and it is the policy which democratic societies have adopted everywhere for dealing with social questions of one kind and another.

It was a prohibition piece of legislation which England adopted for the abolition of the slave trade. America adopted the policy of prohibition in dealing with the institution of chattel slavery and wrote the policy of prohibition into the Constitution of the United States. All nations at the present time, by treaty agreements, are working out the policy of prohibition as regards the white slave traffic through the various ports of the world. The League of Nations at the present time is adopting, or trying to adopt, the policy of prohibition in the matter of getting rid of opium and the opium traffic.

All these are prohibition measures. They are exactly the same kind of thing as we have embodied in the Eighteenth Amendment to the Constitution. What we call prohibition as applied to the liquor traffic is simply the application of an old-time method of legislative and constitutional procedure, as old at least as one hundred or one hundred and fifty years.

There isn't anything new in the prohibition policy. It has been with us all this time. When Abraham Lincoln declared, as he did declare at one point in his life, that the next great problem before the American people would be the problem of getting rid of the liquor traffic, and when he said that "the victory against the liquor traffic shall be complete when there shall be neither slaves nor drunkards upon the earth, and how proud the title of that land which may truly claim to be the birthplace and the cradle of both these revolutions that shall have ended in this great victory shall be"—he was thinking in terms of prohibition, the application of identically the same policy to the liquor problem which he applied to the slavery problem when he wrote his immortal Emancipation Proclamation.

I want still further to emphasize this fact that there is nothing new in prohibition by going on to point out that even from the standpoint of its application to the liquor problem there isn't anything particularly new in it. In a very interesting and important article published in the new "Mercury," written by my friend, Mr. Darrow, he opens up his discussion of what he calls "the ordeal of prohibition" by pointing out that the Eighteenth Amendment and the Volstead Act were passed "without submission to the people," and that they constituted "a radical and revolutionary change in social policy."

I must confess that I read history differently from the way Mr. Darrow reads it. As I ponder that statement of my opponent, I cannot exactly understand what he means. The Eighteenth Amendment was passed by the same democratic method of procedure as every other amendment to the Constitution. It was passed in accord-

ance with the principles and the ideas laid down by the makers of the Constitution. What is more than that, the Eighteenth Amendment was passed as the ultimate and inevitable fulfilment of a policy of prohibition which has long been recognized and long been supported in the territory of the United States.

Imagine saying such a thing as that the Eighteenth Amendment constitutes "a radical and revolutionary change in policy!" I wasn't born yesterday. I wasn't born ten years ago. I hate to realize how long ago I was born. (Laughter.) But during the entire period of my life down to the moment when I went to live in the City of Boston, when I was twenty-five years of age—in other words, through the first quarter of a century of my life—I never lived on anything but absolutely prohibition territory.

If I had never gone outside of the city where I lived for the first twenty-five years of my life, I never would have known that there was such an institution as a saloon; I never would have known that there was such a thing as the liquor traffic. In other words, long before the passage of the Prohibition Amendment, I as a citizen of the United States was made perfectly familiar with the policy of prohibition. Indeed, the Prohibition Amendment was passed after thirty-three of the forty-eight States of the United States had passed prohibition legislation covering their own territory by the franchise of their own citizens. When the Eighteenth Amendment was passed 2,835,367 square miles of territory, constituting about eighty-seven per cent of the entire territory of the United States, was absolutely dry under prohibition legislation. When the Eighteenth Amendment was passed two-thirds of the total

population of the States were living in dry territory under prohibition laws.

What is more than that, prohibition was not merely a policy of cities and towns and States. Prohibition was a sanctioned and adopted and supported policy of the great industries of this country. Long before the Eighteenth Amendment was passed, tens of thousands of men and women were working in factories where no worker was employed if he indulged in drinking liquor. Years before the Eighteenth Amendment was passed, all of the great railroads in this country, affecting millions of citizens of the country, had gone absolutely dry. So that the condition of employment in these great railroads was the condition of total abstinence.

Talk about the Eighteenth Amendment constituting "a radical and revolutionary change in policy!" The Eighteenth Amendment came in the process of inevitable social development. It was the final fulfilment of a policy to which the overwhelming majority of the American people had long since dedicated themselves by the processes of democratic franchise and democratic legislation. It is that thing that I am talking about.

Prohibition is thus as old as democratic society, going back at least to the prohibition of the slave traffic in England, and covering all development in the liquor field during a period of more than half a century. That is the first thing that I want to emphasize about the subject that we are debating.

The second thing in the way of definition is this: I am persuaded (and I am wondering if Mr. Darrow will agree with me) that what, after all, we are going to discuss this afternoon, is not so much the *facts* in the question as our *convictions* and *ideas* upon the question.

We might talk facts, or alleged facts, until tomorrow morning upon his platform, and I doubt very seriously if we would ever get anywhere. If Mr. Darrow has prepared himself for this debate, he undoubtedly has in his possession a large amount of alleged facts to demonstrate his proposition that the people don't want prohibition. There is no difficulty in getting facts of that kind. You can get them in the smoking room of every parlor car. You can get them in the lobby of every hotel. You can name men by the thousands who don't want prohibition. And after you have talked with the man in the smoking car and after you have talked to another man in the hotel lobby, of course, it follows inevitably that the people of the United States don't want prohibition!

I believe, however, on the other side, that I could demonstrate on the basis of facts that the people in the United States *do* want prohibition. I need only refer to the recent referendum in the State of Massachusetts, where the question of passing what they called the "Baby Volstead Act" for the enforcement of the Prohibition Amendment in that State was carried by the vote of the citizens upon the specific issue of the enforcement of the Prohibition Law.

Mr. Darrow, in the same way, undoubtedly has a lot of facts in his possession, or alleged facts, to prove that prohibition has not succeeded. On the other hand, I have facts, which I believe to be convincing, to show that prohibition, from the standpoint at least of everything that existed before the passing of the Eighteenth Amendment, has after all succeeded very well.

In other words, we might talk about these

so-called facts, one side and the other, until the end of time. But all of the facts, so-called, that Mr. Darrow might present would not convince me for a single moment. I would still believe in the policy of prohibition. I would still believe that that policy should be continued. For the policy of prohibition makes up a considerable part of the social philosophy of my life. In the same way, on the other side, I might bring here such an impressive array of facts in support of the working of the Prohibition Amendment and its relation to the sentiment of the American people as you never saw before in all your lives; but nothing that I could say, no facts that I could present, would work for a single moment to the end of persuading Mr. Darrow to accept the Prohibition Amendment. Mr. Darrow's convictions, if I understand the man, are altogether against this type of legislation, this program of social procedure. Whatever may be the facts, he doesn't want our democratic society to proceed along these lines. In other words, his convictions are unalterably opposed to the whole idea of prohibition. Mr. Darrow's philosophy is the philosophy of philosophical anarchism. My philosophy is the philosophy of philosophical socialism.

Altogether apart from any facts in the case, therefore, I am inclined to believe that, no matter how we try, it is our convictions and our ideas, our philosophical points of view, which we are going to discuss here this afternoon, and I believe that it is just here, in the field of conviction, that Mr. Darrow and I really face one another as antagonists upon this question. At any rate, it is from the standpoint not of my facts which Mr. Darrow can meet with his facts, not of his facts which I can meet with my facts—facts which on both sides are

inadequate, because no adequate and thoroughgoing investigation of the actual situation in this country has ever yet been made since the passage of the Eighteenth Amendment—but from the standpoint of ideas, of convictions, of philosophies, that we are talking. I present to you my case for prohibition in terms of that social philosophy which constitutes a foundation-stone of my thought.

Coming now, after this definition of the question, to the presentation of what I regard as the prohibition case, may I say that this case, generally speaking, is all based upon the historical experience that laws are necessary for the life and happiness of society; that where many people are living together in one place and conducting the proceedings of a common life, the business of these many people must be conducted upon the basis of legislation, of agreements as to the program of the life they live together.

By society I mean all of us—I mean you, I mean me, I mean all the people living in a particular society. Mr. Darrow, if he says this afternoon what he already has said in his writings, will point out the tyranny of the Prohibition Amendment. He will point out how a little group of the people are imposing their will upon all of the people. He may do what an antagonist of mine in a prohibition debate did a little while ago—talk about the United States, under the influence of the Eighteenth Amendment, relaxing into a condition of monarchy.

I don't have any sympathy with that point of view. We have here a society, all of us together. Under the Constitution of that society, however defective it may be, we have agreed to do certain things together in a certain way.

And that is what I mean by laws, that is what I mean by social procedure—the control, the direction, the discipline of all of us together, from the standpoint of the best majority judgment on any particular question that we can find.

I say that society and the laws of society begin when two persons undertake to live together. A society begins where one person is added to another. That society becomes more complex as other individuals are added to the original two. And just to the extent that the society grows and becomes more complex, just to that extent the necessity of law increases and just to that extent (mind this point very particularly!) the liberty of each individual in that society is more and more intrenched upon by the growing complexities and necessities of the common life.

"I want to be entirely free," I say to myself. That means, of course, among other things, that I can't get married! Any man who gets married has got to sacrifice at least fifty per cent of his individual liberty. The very moment that a man marries a woman, at that moment a society is organized and established; at that moment the existence of that society limits the freedom of the one person by the freedom of the other person; and that constitutes exactly fifty per cent of the limitation of each member. Liberty, in other words, absolute liberty, is incompatible even with the contract of marriage. Laws, legislation, constitutional provisions are laid down with the marriage contract as a condition of the continuance of that particular kind of a society.

Now, when to the two persons there are added three and three hundred and three thousand and three million, at that very moment

the sacrifice of the individual liberty of each one to the safety and the liberty of the whole becomes absolutely necessary. As society grows, in other words, in size and complexity, the laws grow in number, the liberty of each individual diminishes, the necessity and the justification of legislation is more and more established as the foundation of society.

I have here in my hands a very able and very interesting book. It is entitled "Crime," written by Mr. Clarence S. Darrow. This book has been widely read. It has gone into its third printing. I have never seen a better statement of this thing that I have been trying to say to you than is found on Page 195 of this book. Mr. Darrow says:

"Between the extreme anarchistic view that each person should be free of control by law and the extreme socialistic view of an extension of state organization till all properties shall be administered by the state and collectively owned, social life in its relation to the individual is always shifting."

Then he goes on to say: "When organized society goes too far, the individual units rebel and clash with the law. When the units swing too far away from the social organization and defy the power of the state, almost automatically some sort of a new organization becomes the state. Whether the new one discards all the old forms and laws is no concern. It at least acts and sets limits to the individual life. If it were possible for all legislative bodies to meet and to repeal all laws, the state still would remain, the people would live and automatically form themselves into a certain order and they would protect that order either by written law or vigilance committees; at least the people would act together."

Now, that is the thing that I have in mind as to the absolute necessity of law as the foundation of society, law interpreted in the democratic sense not as the will of a king but as the expression of common ideas and ideals, so far as it can be met by a majority opinion of all the people together.

Now, my next step. When we come to analyze the kind of laws that are passed in democratic society, we find that these laws are of three kinds. In the first place, there is administrative law, which simply defines how the fabric of government shall be conducted—by-laws for the government of town meetings, a Constitution that defines the President and the Congress and the Supreme Court, etc. I needn't waste any time talking about administrative law, because I take it for granted that all of us who are not absolute anarchists, of course, believe in administrative law.

Secondly, we find a body of laws which can be described by the simple phase of sumptuary law. Sumptuary law affects the standards and the habits of individuals, of individual life. Sumptuary law is the state invading the individual life to interfere with those standards and habits that belong absolutely to the individual life. When the state declares, as it used to in the old Puritan days, that a man shouldn't kiss his wife between sunrise and sunset on a Sunday, when the state prescribes that a woman must wear her skirts not more than six inches or seven inches from the grounds, when the state undertakes to prescribe that a man's neck-tie shall be red and not black or black and not red—when the state does things of that kind, it passes sumptuary legislation; it invades the sanctities of the individual life and deals with those habits and

standards of the individual life which limit themselves absolutely to the conduct and ideas of the individual. I take it that I need not waste any time this afternoon in talking about sumptuary laws, for I take it for granted that everybody in this audience is opposed to them.

But when we go on and analyze this question, we discover this interesting fact: that there are a whole lot of habits of individual life, things which individuals may do, which affect other people and therefore affect society, habits and standards which cannot be confined within the borders of the individual life but overflow and run out into the precincts of society.

That word "overflow" is just the word I want you to remember. In all individual life there is an overflow of individual conduct which becomes social conduct, and social conduct is subject by the definition of the word to the control and direction of society itself.

For example, when a person lives in the open prairie, it doesn't make any difference what he does with his garbage. He throws it out of the back-door and it lies there until it is withered by the sun. When a man lives in New York City, he can't throw his garbage into the back-yard. It then becomes a form of social conduct and he has to conform to the standards of society.

Sewage is another illustration. When you live out in the open, away from people, you can take care of your sewage in what is called "the out-house." But when you live in a city of highly complex society, what you do with the sewage of the household is of social concern; it affects health.

I know a man in Concord, Massachusetts, who fought the town to a standstill, as it seemed for a time, upon his right as a free

citizen to have a cesspool in his back-yard. Finally, when the case was taken to the Supreme Court of Massachusetts it was ruled that individual liberty to have a cesspool did not exist in that state.

When a man lives in an open prairie it doesn't make any difference whether he drives his automobile sixty miles an hour or not, or what direction he drives it in. But when he drives his automobile on Manhattan Island, he drives it the way the city tells him that he can drive it. And if he doesn't submit to the police regulations, he promptly discovers that he can't drive his automobile at all.

Whether a man shall smoke or not is of no concern to anybody, but whether a man shall smoke or not in a garage is the business of the state—and the state legislature prohibits smoking in garages.

Whether a man shall drink a cup of tea or coffee or even water is of no concern to anyone but himself. If any legislation is passed concerning that, it is sumptuary legislation. But when a man drinks poisoned water, when the Health Commissioner discovers that a certain part of the water in the town is poisoned, the citizens of that town are prohibited from drinking that poisoned water—and all the power of the law is behind the prohibition of the Health Commissioner.

These matters, in other words, the overflow of individual conduct, involve the public welfare. They thus create the necessity of a third kind of legislation. Administrative legislation is right. Sumptuary legislation is wrong. The third kind of legislation is social legislation, and in its general aspects we all believe in social legislation.

Social legislation is of two kinds. Legisla-

tion which pertains to safety, the protection of all from injury. Traffic laws controlling the guidance of automobiles are social legislation on behalf of the public safety. Health laws, controlling the things that you and I can do from the standpoint of sanitation, these are social legislation, very narrowly restricting our liberty on behalf of public safety.

Secondly, there is social legislation on behalf of justice—the protection of the weak from the exploitation of the strong. Legislation for the eight hour day, legislation for the minimum wage, legislation for the control of tenement houses—these are all social legislation, very narrowly limiting the liberty of the individual, and all justified on behalf of justice, the protection of the weak from the strong.

Now, you see the conclusion to which I am coming in the presentation of my case. We all approve of social legislation. We all agree, do we not, that the liberty of the individual must bow in a complex society to the safety and the happiness of all of us together? (Applause.)

We all agree to that. That being the case, where is there any difference between us? Why, the difference between us is this—the difference between myself and Mr. Darrow, the difference between two sections of this audience: Mr. Darrow believes, if I understand his writings upon the question, that prohibition is an instance of sumptuary legislation; it is the invasion of the private precincts of the individual life and the denial to a man of the liberty of the control of his individual life which belongs to him as a citizen of a free democracy.

To that definition of the Prohibition Amendment I say briefly, to the point—"tommyrot." The Eighteenth Amendment to the Constitu-

tion is not sumptuary legislation. It has nothing to do with sumptuary legislation. From beginning to end, it is social legislation.

You say, "Why has the state any right to dictate to me what I shall drink?" The state hasn't any right to dictate to you what you shall drink, provided that what you drink affects yourself alone and does not affect society at large. If any man should say to me or prove to me upon the basis of social experience and laboratory experiments that the drinking of a cup of coffee does to society what the drinking of a glass of whiskey does, then I should say that legislation against coffee, like legislation against whiskey, was justified —justified by its social effects, justified by the fact that the safety and happiness of us all must be protected from the invasion of the one or the two.

Do you suppose for a single moment that when the great railroads of this country refused to employ anybody who was not a total abstainer—do you think that they were enacting sumptuary legislation? Do you think the railroads cared whether a locomotive driver drank coffee or tea or whiskey or what not if the whole thing was confined to his individual life? What the railroads discovered was this: that a great train, driving sixty miles an hour, with hundreds of lives in the cars, could not be safely driven by a locomotive engineer who had drunk a glass of whiskey or a glass of beer. And therefore the railroads, without waiting for any constitutional amendments, put their business on an absolutely dry basis.

In my closing moments, I assert to you, my friends, that liquor legislation—the constitutional amendment particularly—is social legislation for the two reasons which I have defined.

Liquor, in the first place, is dangerous to the public safety. If it is necessary to have a locomotive driver sober, what about an automobile driver? We are living in the automobile age. Great automobiles are driven at rapid speed through the streets of our cities and the highways of our country. Do you think it is compatible with public safety to allow the driver of an automobile, under any circumstances, to get liquor? Not at all! We have got to do what we can (however ineffectively) to relieve and save society from that kind of a menace.

Liquor is dangerous to public safety because it creates poverty, it cultivates crime, it establishes social conditions generally which are a burden to society.

Secondly, liquor legislation is social legislation because liquor constitutes a deliberate exploitation of the weak by the strong. The real thing that the Eighteenth Amendment was after—the real thing—was the liquor business, the manufacturing of liquor, the distribution of liquor, the sale of liquor under a public license—a business in the hands of a few for the amassing of great millions which preyed upon the weaknesses of the people as a tenement house owner would prey upon the weaknesses of the people if he were allowed to do so in the absence of tenement house legislation.

For these two reasons—because liquor is a menace to public safety, and an exploitation of the weak—we have got to get rid of it. And if you can show me any way of doing that thing apart from doing what we did to the slave trade, to chattel slavery, to the white slave traffic, to the opium trade, I would like to know what it is.

My final word is this, and I mean it just as

directly as I can say it. The opposition to prohibition at bottom is like the opposition to all laws that certain people don't like; it is the opposition of selfishness. Liberty! What do the majority of the opponents of the Eighteenth Amendment care for liberty? They care nothing. All they care about—the majority of the opponents of the Eighteenth Amendment—is appetite. And as compared with their appetite on the one hand and public safety and public happiness on the other, these people prefer their appetite every time.

I believe in liberty—absolute liberty of speech, absolute liberty of assembly, absolute liberty of the press—all these essential liberties. But I have never believed that democracy involved the liberty to guzzle when that liberty to guzzle was a menace to me and to all other men and to the integrity of that society which constitutes the America we love together. (Applause.)

NEGATIVE PRESENTATION ADDRESS

THE CHAIRMAN: Doctor, I don't know whether they are voting for you or not. When I attend a political meeting, I am always glad if they respond that way. (Laughter.)

We have next the presentation of the negative. There will be forty minutes given to that. And I am very glad to introduce this versatile man, the great criminal lawyer, author, lecturer and moulder of public opinion, Mr. Darrow. (Applause.)

MR. CLARENCE S. DARROW: I thought for a few moments that the Doctor had this house packed on me. (Laughter.)

I will say this: that it has been a long time since I have participated in a debate where I have had an opponent who has stated the position as fairly and as clearly as Dr. Holmes. And I shall agree with a good deal he said—but not all of it. (Laughter.)

I could present miles and miles of statistics to show that everybody was richer and happier and behaved better when they had a chance to drink. (Laughter.) Those statistics wouldn't be worth a continental—m-m—continental. (Laughter.) He can produce just as many to show that they are happier and better and richer if they don't drink. He is quite right in saying they are of no value.

And, then, I don't care a continental which way a man gets rich. I am not interested in getting rich—any longer. (Laughter.)

This question is not a question of statistics or facts. I have been in statistic factories. I know how they are made. (Laughter.) It is, as Dr. Holmes stated, a pure question of the philosophy of government. And I am very

glad indeed to have this question presented by the able man that I know Dr. Holmes to be. I have never yet found a debater or prohibition speaker who would do it. They talk about little Johnny's father, who wouldn't come home and take care of his sick mother; and they tell you how many prisoners are in jail, who all got there by drinking (they told the chaplains they got there by drinking, because they knew they wanted to hear it, when in fact if they hadn't eaten they wouldn't have been there), and they tell you all these things from which you can draw no conclusion whatever.

This is a question of the philosophy of government. And when I saw the kind of literature my friend reads, I knew that everything was going to be all right. (Laughter.)

I will go slightly further than he goes. I know how accurately he described government. A great many people in this world, unless they act with a certain kind of organization, are apt to bump into each other. And, if there is too much organization, why, they can't move at all. (Laughter.) And it is better to have some bumps than no movement (laughter), and you have got to take it altogether. How tight you are going to tie a people and how much you are going to let them bump is a question of practice and theory. If Dr. Holmes knows of any way in the world to draw the line that will include all cases, why—he would contribute something to me, if not to the rest, if he would tell what that way is.

I know that there isn't any—that is—I know up to this time. It is a question of infinite trial, of infinite mistake, of infinite going in and coming out. It depends upon the people. It depends on where they live. It depends on the kind of people they are. It depends upon

ten thousand things as to how close the organization should be knit together. You may knit it so close that they will all suffocate. You may leave them so far apart that they can't move without bumping, and there you are.

Now, where is the line? I don't know. Does Dr. Holmes know?

I am one of those, I will admit, in starting, whom he has more or less defined as doubtful and suspicious of authority. I don't like it. I think the less we have, the better. He describes that as bordering on the philosophical anarchist view. I would speak for that as against the extreme socialist view, which says that everything on earth should be regulated or controlled. Society is always moving between those two views. And, as a practical matter, neither one is correct. Society will never submit to an organization, in my opinion, where there is no authority of any sort by one man or another or by collective organization over others, and it will never, for long, submit to what is still more intolerable, the complete enslavement of the unit by the mass.

Now, you can't find where the line is—and I can't find where. I am here to say that prohibition is 'way over the line in reason, in logic, in human experience. There are other things that are clear beyond the line. They have been wiped out gradually. Then the people got a brainstorm—and they have come back again.

If there were any line that could be drawn, people haven't got the intelligence and tolerance to draw it. They are like a flock of sheep. All go one way at one time and another way at another time.

One mistake that we make is assuming that human beings are reasoning animals. Human begins do not reason. They act from the strict-

est personal motives and are influenced by the mob, first of all, and sometimes they go one way and sometimes they go another. That is one of the main reasons why I am so suspicious of authority. And I think that to preserve any liberty whatever to the individual, we must watch carefully to prevent the encroachments of what we call the state or organized society.

Now, let me refer specifically to some of my friend's remarks. He says that he doesn't object to a man drinking if he goes off alone. Well, that is the way I do it generally. (Laughter.) But he objects to society drinking. Well, society doesn't drink—only individual men and women drink.

I object to a man being drunk if he gets in the way of anybody else. I don't mind his being drunk alone. But if I want to take a drink and do not get drunk where I interfere with anybody else, should society then tell me that I can't drink? Or, if Brother Holmes—no, I will not use him; I will take the Chairman (laughter)—if he hasn't got any more sense than to get drunk, is that any reason why I, who do not get drunk, shall not have anything to drink? Now—is it? (Laughter.)

He says that, of course, to forbid us smoking would be sumptuary legislation and nobody would stand for it. Wouldn't they? There is a big movement in this country today to pass legislation against smoking—and every man and woman in it is a prohibitionist.

Now, I don't believe in encouraging prohibitionists. There isn't anything that they would stop at. They would pass a law to make you go to church—as they have done. They did that in New England—and they picked out the church. They would send you to jail if you

didn't go to it. And then they passed a law against your sleeping in church—and that took all the pleasure out of religion. (Laughter.)

I say that nobody in their right senses would trust their individual liberty to the people who believe in that sort of legislation.

My friend says he believes in liberty—liberty of speech, liberty of the press. Yet, I can talk about beer, but I can't drink it. (Laughter.) What is the use of talking about it? All that makes it worse when I can't drink it. Right now in this discussion I get thirsty just talking about it. (Laughter.)

Can you have any liberty without liberty of action? Liberty of thinking and liberty of talking—well, everybody doesn't like to talk as well as my friend and I do.

Of course, I know perfectly well that a man isn't absolutely free. In fact, I don't know that he is free at all. He imagines he is and that is something. I know that everybody gets tied up in all sorts of ways.

He says that in matrimony a man sacrifices fifty per cent of his freedom. I think he has got the percentage rather low. (Laughter.) Somewhere around one hundred would be better. (Laughter.) But if a man does it—why, he does it. (Laughter.) I would object to the state forcing it on us—forcing us either to get in or stay in. (Laughter.)

If a man goes on a steamboat, he sacrifies some liberty, if it is out on the ocean; but that is different from putting him on it. Men may voluntarily accept certain conditions, but that isn't the state's affair, and the state should not have anything to do with putting you there or making you stay.

Now, let's see whether we can get any kind of basis here on this question—and it isn't easy

when one meets the issue fairly and openly, as my friend does. Shall we support a theory of government where the majority, by a vote, may make anything criminal if they do not believe in it?

Now, they can do it. I never talk about the "rights" of anybody. There is no such thing as "rights," anyhow. It is a question of whether you can put it over. In any legal sense or any practical sense, whatever is, is "a right." If you can put it over, all right!

I don't believe in the Eighteenth Amendment, but it is here. And I wouldn't believe in it if I knew that the people in this country could get richer under it; I still don't believe in it. Of course, they would get richer without coffee, in which he seems to believe, and he probably drinks it. Everybody believes in what they want and they are not interested in what the other fellow wants, unless they want it, too.

I am not interested in making the people richer or even healthier. I don't know about making people better. Maybe, if I made them better—what I think is better—they would be worse. I am rather interested in letting the individual do his own thinking—if any (laughter)—but he would have more fun while he was doing it. (Laughter.)

Now, let me admit for the sake of argument. He has told you what area was dry in the United States—a great area, but not much besides area. (Laughter.) All the desert—that is dry. All the South—that is dry, as far as the Negroes are concerned. (Laughter.) Railroad employes are dry. That doesn't mean the presidents, mind, or the general managers or any of the officers. Oh, no, I know them myself. (Laughter.) It doesn't mean them. The

prairies are dry and the farmers—I never count them either.

But the vast centers of population, where all the feeling for liberty that still persists in this country is kept alive, the great centers of tolerance and independence and thought and culture—the cities—all of them were wet before prohibition, and since. (Laughter.)

It isn't a question simply whether prohibition would be good if there ever was any such thing. Of course, we don't know whether it would be good or not, yet. I never knew anybody with money who couldn't get a drink. Do any of you? I would agree to find places here, although I am a stranger. (Laughter.) I wouldn't have to look far. They would come to me. I never knew anybody in this land of ours, under the Amendment and under the Volstead Act, to go thirsty.

Of course, it has raised the price. It hasn't placed it within the reach of all. It has substituted whiskey for beer to many people—which I think is a poor substitution. It has made people drink gin and whiskey where they once chose wine—which is a poor substitution. It has done all of those things. And I imagine there is no system of prohibition under which it will not always do those things, and that is practically the only thing it will do.

Now, suppose we admit, for the sake of the argument, that sixty percent of the people of this country would vote dry. If sixty per cent of the people do not believe in something that the other forty per cent believe in, should they send the forty per cent to jail for what they do?

Now, there is your question. What proportion of a population should believe that certain acts are criminal before passing a crimi-

nal statute? If forty per cent of the people of this country believe that a thing is innocent, do you think that the sixty per cent who do not believe it would send that forty per cent to jail if they were tolerant people?

I assume that sixty per cent of the people in this country believe in either the Protestant or Catholic religion, or think they do, and believe that it is very necessary to man's welfare on earth and absolutely necessary to his welfare in the hereafter. Are they justified in passing a criminal statute and sending heretics to jail?

They have done it, and they may do it again, because intolerance is just as strong in the world today as it ever was. And when we permit it to have its way, nobody knows who will be the victims. Intolerance is ever vital and living. They not only have sent them to jail for heresy, but they have burned them at the stake for it. They broke them on the rack. They visited every means of torture upon them, simply because of a difference in religious opinion.

I suppose my friend will say those were sumptuary laws. What is a sumptuary law? A law regulating your personal habits or your personal conduct. He says it would be a sumptuary law if you passed a law against drinking coffee. Then why not if you passed one against drinking beer? It is a sumptuary law if it is against drinking coffee, but it is not a sumptuary law if it is against drinking beer. Why didn't he tell us why that was? Nobody could tell us which of the two is better or worse for the constitution. And if it is worse, what of it? I might take a little chance on my constitution for something I wanted to do. What is the use of taking such good care of your constitution, anyhow? (Laughter.)

What is a sumptuary law? Here is the State of New York, that forbids the playing of professional baseball on Sunday. They may have changed it lately, I don't know. They are getting wickeder and wickeder, every day in every way. But Pennsylvania is so good that they can't do it yet. They would forbid you going out in your automobile (if the law were strictly construed) on Sunday.

He says that liquor is in the way of automobiles. Well, then, let's get rid of the automobiles. (Laughter.) Now, he might prefer having an automobile. Well—I have no automobile, so I would rather have beer. (Laughter.)

It all resolves itself into a question of either you getting your ideas over or the other fellow getting his ideas over. And that seems to be the common idea of government. Instead of tolerating each other's frailties and getting along as best we can with each other's peculiarities, we say that if it is right for me it is right that you should do the same thing, because I know what is right and you don't know what is right.

Now, if it is a sumptuary law to forbid the one thing, why it is a sumptuary law to forbid the other thing. Some fellow might forbid eating johnnycake. Well, it wouldn't hurt me, but I would hate to have them tackle pie. (Laughter.) Yet pie, I know, isn't nearly as healthy as johnnycake. Perhaps that is the reason I like it better. (Laughter.)

Really, I never did like anything that was healthy or anybody that was healthy. It is—well, kind of too healthy—there is not enough excitement about it.

Is this glorious state of ours—and all the wisdom isn't in Congress, although I sometimes

think that all the ignorance is (laughter)—to appraise a human being, measure him up and figure out his appetites and his tastes and his capacity, and then just determine what sort of food and what diet will keep him alive the longest? We would have a fine time, wouldn't we?

Now, if we put this question to the members of the Women's Christian Temperance Union, I know I would be out my beer. But I know that all of them would stick to coffee and tea —every last one of them—and it wouldn't change their minds a bit if we told them it was killing them by inches; they would keep it because they like it.

And, after all, that is mostly why we eat and drink. Is anybody going to change this human race so that it will be rational according to what will produce the most muscle and the most fat and the least brains?

Take out of this world the men who have drank, down through the past, and you would take away all the poetry and literature and practically all the works of genius that the world has produced. (Applause.) What kind of a poem do you suppose you would get out of a glass of ice-water? (Laughter.)

Why, there is nothing to it. Who is the fellow that is going to measure up the human being and tell him what he needs—what will make him stout like a horse, or make him live long like an elephant—and then pass laws to see that he conforms?

Do not the desires and the emotions and the feelings of the human beings count? Why, by the time the state, moved by the reformers, makes every man over in its own likeness, what do you suppose he will look like?

That is what they have always done. Haven't

we had enough experience in the past? Let anybody look at the long trail through which the world has wended its way, and then say whether the fight for liberty is worth while, whether we should meekly surrender because, forsooth, somebody tells us we can live longer and we can drive an automobile better if we don't have a drink.

What have we done in New England, for instance? We have had laws against witchcraft, and old women have been put to death for being witches. Of course, if they had put young women to death, there would be some sense in it. (Laughter.)

It was made a criminal offense to go to a theatre. It was a criminal offense to dance —although, of course, everybody was going to have the privilege of dancing in the hereafter if they were bad—much to the pleasure of the Puritans. It was a criminal offense to go anywhere on Sunday, except to church. And it was a criminal offense not to go there, else they wouldn't have gone. (Laughter.)

The prohibitionist is the lineal descendant of the Puritan. I didn't know it before, but even my friend here says that he came from Massachusetts. (Laughter.) But he believes somewhat in freedom. He believes in the liberty of speech and of the press. Well, there are some people that like to do something besides talking and writing. That doesn't cover the whole range of liberty. Almost every sort of conduct has been hedged around in this world by fanatics.

Now, I will tell you what is back of it all. It may take some time for it to get into some of your heads, but I will tell you. It is this old Heaven-and-Hell idea that God, somehow, levels things up, and if you are happy in this world

you are going to be tortured in the next, and if you are miserable in this world you are going to be happy in the next. They all believe in futures. They are going to be happy somewhere else. There is a large percentage of the population of this country and the world that have got it into their heads that happiness is sinful. They must not go to the theatre, they must not drink, they must not do anything they want to do, but just something they don't want to do. Now, that is the basis of it all.

Let's see about this question of liquor. It has always been on the earth and always been used —many times to excess, of course. Food has also been on the earth and also used, generally to excess. I never saw anybody that didn't eat too much, if he could afford it. And if you go down to the graveyard and look them over and learn their history, I will guarantee you will find that there are ten funerals pulled off where the corpses would have lived longer if they hadn't had so much to eat, to every one that would have lived longer if it hadn't drank so much. (Laughter.)

In this world it is a pretty good thing to mind your own business, if you have any. (Laughter.) The first instinct of everyone is to do what he wants to do. Now, I am not going to argue that the collective organization shouldn't at some time keep him from doing what he wants to do, in order to protect his own life. I am not going to argue that, but every human being ought to be left to follow his own inclinations and his own emotions, unless he clearly interfered with the rest to an extent that was so injurious that it would be manifest to most anybody else.

There are certain things that for long periods of time, in all countries, have been considered criminal—like murder. Suppose that question

were put up to the community. There probably wouldn't be one in a thousand who would say it shouldn't be the subject of a criminal statute. There is almost a universal agreement on that, with regard to burglary, larceny and murder.

Suppose the question of eating certain kinds of food or drinking certain kinds of liquid were put up to the community, and forty per cent of the people thought it was right. Who are the other sixty per cent who would have the audacity to send those forty per cent to jail for doing something the sixty didn't believe in?

On how many questions do two people think alike? They can go only a certain way, when they branch off and leave each other. Men ought to hesitate a long time before they vote that a certain thing is a crime—and prohibition means crime.

I have been raised, we'll assume, to drink beer. Nature ferments the cider and the grape-juice, and the world has always used it—the good and the bad alike;—in churches, also. They have used it on all occasions. They have used it for the festivity of the wedding and the sorrow of the burial, for all time. And probably three-fourths of the people of the earth believe they should have a perfect right to use it—and at least forty per cent of the people of the United States.

If the doctrine should prevail that when sixty per cent of the people of a country believe that certain conduct should be a criminal offense and for that conduct they must send the forty per cent to jail, then liberty is dead and freedom is gone. They will first destroy the forty per cent and then turn and destroy each other.

In this world of ours we cannot live with our neighbors without a broad tolerance. We must

tolerate their religion, their social life, their customs, their appetites of eating and drinking, and we should be very slow, indeed, when we make criminal conduct of what is believed by vast numbers of men and women to be honest and fair and right.

This Prohibition Law has filled our jails with people who are not criminals, who have no conception or feeling that they are doing wrong. It has turned our Federal Courts into Police Courts, where important business is put aside for cases of drunkenness and disorderly conduct. It has made spies and detectives, snooping around doors and windows. It has made informers of thousands of us. It has made grafters and boodlers of men who otherwise would be honest. It is hateful, it is distasteful, it is an abomination, and we ought to get rid of it, and we will if we have the courage and the sense. (Applause.)

AFFIRMATIVE REFUTATION

THE CHAIRMAN: I am convinced, Mr. Darrow, that a lot of these people are voting a second time, or else you have converted them.

Doctor Holmes will now have fifteen minutes, in refutation of the arguments of Mr. Darrow. (Applause.)

DOCTOR HOLMES: I don't imagine, in any seriousness, that there can be any difference of opinion between Mr. Darrow and myself as to this matter of tolerance. At least, in view of what was said at the conclusion of his address. I want to place myself on record as believing absolutely in tolerance, and believing that to be one of the great ideals of our organized social life to which we must always give our obedience. I confess, however, that the appeal for tolerance on behalf of a certain practice or institution because it has existed from the beginning of the world doesn't reach me, exactly. I never have thought that antiquity was any reason for reverence or that the age of a thing necessarily meant that the thing was right or should be accepted in the name of liberty.

Mr. Darrow points out that the drinking of liquor has been here for all these centuries and is responsible for all the good things that have existed in society. I can imagine a man, at that particular transition age when the institution of polygamy was prohibited and the institution of monogamy took its place, arguing, "Why, polygamy has been here from the beginning of time. Do you mean to say that a man should not be allowed to have as many wives as he wants to? Then you are taking away this liberty which has belonged to man from the very beginning of time."

The same argument was applied in the days of slavery—the black man always enslaved to the white, and therefore it was the part of tolerance to recognize that that institution was right!

So it is with I know not how many other social evils—they can all be supported from the standpoint of antiquity. But it is the hoary evils, to my mind, that very often we want to get rid of, and the argument of antiquity is an argument that is feeble.

If my friend, Mr. Darrow, will pardon my saying so, it seems to me that he is in a sad confusion as to why the Prohibition Amendment was added to the Constitution. I tried to analyze his speech as he was proceeding from this point of view, and I put down here, in one-two-three order, the reasons he presented as to why the Prohibition Amendment was passed.

The first reason he gave was that alcoholic liquors brought a great deal of excitement and fun into life. He said that a lot of people don't believe in fun—they think that fun is synonymous with sin—and, therefore, they undertook to prohibit alcoholic beverages because they contribute fun to life.

I do not believe, for a single moment, that there has ever been a supporter of the Prohibition Amendment who supported it because alcoholic beverages contributed fun and excitement to life. All of us want people to have fun and excitement—up to that very point where fun and excitement menaces the safety and the happiness of society. We allow people to have fun and excitement, dances and songs in their apartments, in order that all the joy of life may come to them. But when the dance and the song in a particular apartment in a house overflows into my apartment so that I cannot sleep at night, when the song and dance goes on from midnight to two o'clock in the morning, and

from two o'clock in the morning to four o'clock in the morning—then I can take my complaint to the Health Commissioner. I can point out the fact that there is a violation of social amenity and social safety and social health, and my neighbors are at once informed by the public authorities that the song and dance, no matter how much fun they may contribute to family life, cannot be continued after a certain hour in the night, because it is hazardous to the happiness, the security, the rights and the liberty of other people. My neighbor has his right to his song, I have my right to my sleep, and the line to be drawn between the two is the point of compromise about halfway between the evening and the morning.

The second reason which Mr. Darrow gave for our support of the Prohibition Amendment was our conviction that the drinking of all beverages is unhealthy.

I agree with Mr. Darrow that sumptuary legislation of that kind, the passing of a law for the individual health of other people, is entirely wrong. I do not believe we should interfere with other people's business to the extent of passing legislation which will protect them from unhealthy practices. I believe that each man must work out the problem of his own personal health in his own way.

But look at the thing from this standpoint: If a man, let us say, has paralysis, he is a very unhealthy person, but we do not turn to the Health Commissioner in regard to that particular case of ill-health. What happens, however, when a man has smallpox? The very moment a man falls victim to smallpox, the state comes into his home, marches into his bedroom, takes that man out of his home and puts him in a contagious hospital and keeps him there until he is healed of that disease.

In other words, individual health which does

not affect society is the business of the individual and is not the business of society. But the very moment that individual health overflows, is contagious, is infectious, becomes dangerous to society at large—at that moment it is the business of society, and our Health Boards and our Laws of Sanitation and our public hospitals are all prohibition institutions, based upon the fact that a man shall be prohibited from walking at large or from subsisting in the body of society so long as he is afflicted with a disease that is dangerous to the happiness and the welfare of other people.

Mr. Darrow seemed to feel, in the third place, that the supporters of prohibition supported it because alcoholic beverages brought exaltation and inspiration to people. "Look," he said, "at all the inspiration that has come cut of the ages of drinking. And now we are going to take away the wine glass and give people a glass of cold water. Don't you think that all the inspiration will die? There are a lot of people in the world who don't want any exaltation or inspiration, and therefore they substituted the glass of ice-water for the glass of wine."

I would like to know, if I may speak of this just for a moment, where there is the data for the demonstration of the proposition that wine has done all these remarkable things. I agree with you that out of these ages of drinking, poetry, song, the drama—many lovely things—have proceeded. But how do we know as to what more might have come if men had been saved from the deleterious effects of liquor?

Mr. Darrow himself argues that we have never yet had prohibition, that we don't know what prohibition really is today. I want to ask society to wait, in this business of exaltation and inspiration, until we see what a sober generation can do. As far as I am concerned, if I were a betting man, I would put my bets, in the

long run, on the sober generation as contrasted with the generation that is drunk. (Applause.)

But to return to the main line of the argument, I don't believe that anybody ever supported the Prohibition Amendment because the drinking of liquor brings inspiration and exaltation to life. Have we ever denied to anybody the experiences of his religion because religion brings exaltation and inspiration to men? Not at all. But there are times when we interfere with religion, and believe that we are not violating the standards of liberty and tolerance when we do so. Only a little while ago we discovered a religious prophet up in New England, and his religion was conducted in terms of the betrayal of young women. The houses in which he practiced his religion were filled with girls who had been betrayed and were being used by him and his followers. The state interfered in that particular case. The state declared that when religion overflows into society to the betrayal and the misuse of young women, then men cannot hide behind that particular kind of religion in the name of exaltation, in the name of inspiration, or in the name of liberty at all. (Applause.)

I don't believe that any prohibitionist ever supported the Prohibition Amendment because liquor gives fun, because liquor gives ill-health or because liquor gives inspiration.

I have tried to point out, in my opening address, why the prohibitionists interfered with the liquor traffic. It is all summed up, if I may repeat the proposition, in that one word "overflow." We found that the drinking of liquor flowed out beyond the bounds of the individual life and became a menace to society.

When Mr. Darrow can prove to me that the drinking of a cup of coffee—and I might say here that I don't drink coffee, just exactly as I don't drink liquor—when Mr. Darrow can

point out that the effect of coffee is identical with the effect of liquor, when anybody can demonstrate that after a man has taken enough coffee he beats his wife and abuses his children and spends all of his earnings and commits crime of one kind or another, then I shall be in favor of a Twenty-first Amendment to the Constitution, denying to people the right to drink coffee. (Applause.)

Mr. Darrow asks the question, "Where shall we draw the line?" We draw the line at exactly this point—the point where the effect of individual conduct overflows into society at large, where the thing that I do, or may want to do, destroys the lives of my fellowmen.

Mr. Darrow argues as though the Prohibition Amendment were put over on the people of the United States by a lot of Methodists or a lot of moralists who wanted to turn society back to the standards of the age of Puritanism. Not at all! The progress of prohibition in this country—and I believe I am pointing to an historical fact—was a scientific progress. The data that finally brought conviction were the data of scientists in the German laboratories. The data that finally brought conviction were the statements of the judges and the district attorneys and social workers who have to do with the facts of society and the problems of social life.

The simple fact of the matter is that as the nineteenth century went on, from decade to decade, there came a growing public knowledge and a growing public consciousness that America and the liquor traffic could not permanently exist together, and for that reason they decided to prohibit the liquor traffic rather than allow that liquor traffic to eat away, corrupt and destroy the fabric of our social life.

To my mind, the final argument in demonstration of that proposition was the experience that came to us during the war. In every one

of the great nations of the world, it was discovered, before the war had been proceeding more than a few months, that victory was impossible if the liquor traffic was allowed to go on without interference.

Russia was the first nation in the war to enact prohibition. The Russian officers discovered that the Russian armies could not and would not fight as long as the soldiers were allowed to get their regular supply of Vodka, and therefore prohibition was enacted under the rule of the Czar.

The same thing took place in England. Lloyd George made a public statement, during the progress of the war, that all of the power of the German armies was not doing so much harm or bringing such danger to the British Empire as the beer and the ale and the whiskey that were being consumed by the soldiers at the battlefront and by the workers in the ammunition factories. Therefore a certain degree of prohibition, by social practice and by legislation, was put into force in England during the period of the war.

We found the same thing here in America. We could not fight the war successfully or efficiently if we allowed the liquor traffic to go on.

That was one of the great lessons we learned during the period of the war. And I want to sum up the whole proposition in this simple statement—that what society cannot survive during the war, society also cannot survive during the years of peace.

Mr. Darrow asks—and this is my last point in this rebuttal—as to whether we are willing to support a theory of society in which the majority of the citizens can dictate to the minority. I ask Mr. Darrow what other system of society he can offer us in place of majority rule? The only alternative I know is the rule of the single man or the rule of the single social group.

Apart from that, I don't know of any other type of society to which we can turn.

My heavens, I have lived all my life in the ranks of the "oppressed minority." Only once in a while have I had the satisfaction of being in the majority. At the last election, the overwhelming majority of the people in this country decided that President Coolidge should be President for the next four years. Could anything be more terrible from the standpoint of a supporter of Mr. LaFollette, like myself? But what other system of government have we got, excepting the lining up of all the people and deciding, as best we can, upon the basis of the majority vote, as to what we shall do?

The one safeguard which we must conserve, in a government of that kind, is the right of the minority to agitate, the right of the minority to organize to the end of destroying and defeating the majority. And so long as you accept the will of the majority, with the full right of the minority to denounce and try to destroy that majority, just so long, to my mind, have you got the true and the honorable type of society.

As my final word in this rebuttal, let me say this: Those opposed to prohibition have every right of agitation, they have every right of denunciation, they have every right of organization. The thing that "gets" me is this—that, with all their talk and all their denunciation, they do not translate their sentiment into action and do what any minority can do, at any time, and that is repeal the legislation to which they object. (Applause.)

NEGATIVE REFUTATION

THE CHAIRMAN: I sympathize with you, Doctor Holmes, about the tyranny of the political majority—but for another reason. (Laughter.)

Mr. Darrow will now have ten minutes in which to refute Doctor Holmes' arguments. (Applause.)

MR. DARROW: I don't know whether Doctor Holmes knows that out of 110,000,000 people in the United States, 6,000,000 mainly located in the Prohibition States—6,000,000 people out of 110,000,000 can prevent the repeal of the Eighteenth Amendment. We have no democracy, when it comes to that—and never did have. I don't care if three-quarters of the people in the United States vote for repeal—you can't get rid of it that way.

Now, let me just see how logical my friend is. He is a good talker all right. (Laughter and applause.) If I were him, I think I would be satisfied if I got freedom of speech, without any other kind. (Laughter.)

But let us see about his logic. He said that if he lived in a flat and some family got to playing the piano and dancing and having a good time until three or four o'clock in the morning so that he couldn't sleep, wouldn't he be justified in having them arrested for breaking the peace? Yes. But that isn't what he would do. He would get a Constitutional Amendment passed to destroy every piano in the United States. (Applause.)

Now, he says that he wouldn't bother people who drink coffee, although he doesn't drink it, himself. Well, that is good of him. I wish he wouldn't bother about the people who drink beer. (Laughter.) But he says the trouble

comes when a thing slops over into the community. None of mine ever did. (Laughter.) He says, "If you do it alone, all right." Let's see about that. I never got drunk in my life. I never drank much—before. (Laughter.) And I don't believe I ever disturbed my neighbors on that account—and I don't believe there is one in thousand who ever drank, that did. Now, I don't object to his bothering the one in a thousand. Arrest him, send him to jail. With me it doesn't slop over, and yet you are going to take care of that fool fellow who gets drunk and disturbs the peace, by not giving me any beer.

Herod, of course, was a wise man. He wanted to get rid of Jesus. Of course, I won't guarantee my theology here, Doctor. He wanted to kill Jesus and so he took a straight prohibition way and killed every youngster in the whole State. Of course, he missed Jesus, but he took a good way to get to him.

Who did put over this fool prohibition business? Was it the killjoys? I came from that large area in the country, and up to the time I was ten years old, I used to be dragged to church on Thursday nights to listen to a Prohibition Meeting, and I will bet I signed the pledge a thousand times. (Laughter.) There wasn't anything to drink within fifty miles of me, but I signed the pledge, and everybody else did. That was all we had to do in the country. The meetings were always held in churches, Presbyterian, Baptist or Methodist, as a rule. I am not crazy about them—I might just as well admit it. I don't mind their going to Heaven in their own way, but I want them to let me go to Hell my own way—in peace. God will take care of me after I get there. (Laughter.) These are the backbone of the prohibition movement of America today, and they always have been.

Is there any question about all this? Let's see. You have heard of the Anti-Saloon League, haven't you? They have been holding meetings in this country, in the churches, for years. They have an organization, and whenever a Congressman would rise with a little bit of intelligence, they would pick him off. Of course, that ought to be a good reason for picking off a Congressman. (Laughter.) But if a man were a "dry," even though he might be a thief, a crook, or the worst enemy the world ever had, every blooming fool fellow who belonged to that League would vote for him. If he were a statesman, a philosopher, a historian, a wise man, but took a drink, he would have to go. So they loaded up the Congress of the United States with nincompoops, with brainless people, who would take their commands and sell their souls for votes—and they voted this country dry while these Congressmen had liquor salted away in their cellars. (Applause.) A set of hypocrites and vote-mongers who voted this country dry while they had liquor in their cellars and they have had it there ever since. (Applause.) There is no question about it; not the slightest.

Science? Did anybody ever do anything from science? No. Science never affected the opinions of men. We have had science, plenty of it, for fifty, sixty or a hundred years, but Billy Bryan and Billy Sunday still draw crowds. Nobody cares about science—never did—unless they are going to make some chemical compound.

How did they get this law through? Everybody knows how they got it through. Under false pretenses. They got it through by, first, a system of regulations which might have been all right in wartime, to save food and save labor, and so they cut down on the liquor supply. For quite a while I didn't have any sugar,

either. Why didn't you prohibit that? Also butter, and a whole lot of other things.

I don't care what Lloyd George said. He said a lot of blathering things. But you can't get anybody in England to stand for prohibition today, because they have some sense of individual liberty in England. (Applause.)

They fixed up that law in wartime—when everybody but the prohibitionists were fighting—and they were policing the camps to see that the soldiers didn't get a drink because they said they couldn't fight if they had something to drink. Didn't the Germans fight? Didn't the French fight? And even our fellows, when they got over there, where things were free, and they were in a land of some kind of liberty, and had something to drink.

And so the thing which came purely as a war measure, they foisted on the country in time of peace, and these trafficking, miserable politicians voted for it, scarcely one of them believing in it. And they never did submit it to the people. They passed it through State Legislatures, under the threats of this League that held the whip above their backs, and is doing it today, until nobody dares speak. That is how it came here.

Now, let me just take this further question. He asks: "Isn't this a country of majorities?" Yes. Didn't I make my distinction clear? Here is what I say. Of course, we may elect a President by a majority. We can do anything by a majority. I am like my friend here—I didn't vote for Mr. Coolidge. We can elect a President by a majority. We can send men to jail by a majority. For might is right.

What I say is this: No man who has in him the spirit of tolerance, or any regard for the opinions of others, would pass a criminal statute which would make criminals of forty per cent of the people of the United States. He

would hesitate and doubt whether he was right. He might elect a President, he might elect an official, but when it comes to sending a man to prison for an opinion or a habit or a custom or a practice, no man who has any regard for the rights of other men would do it when forty per cent were one way and sixty per cent the other way. If such were the case, what would become of most of us on some things? I know that more than sixty per cent of the people of this country would be against my religion. If we didn't keep the other fellows so busy fighting amongst themselves, it might be dangerous for us. You might land in the midst of the forty per cent at any time.

It is hard to get more than forty per cent, ordinarily, to agree on very many questions. We will assume that sixty per cent are on the other side of this question. Is that any reason why in a nation like this, made up of all the peoples of the world—(not Americans—for we have never yet developed an American—we are not old enough)—we should take what is practically an equal part of the citizens of the United States and legislate that they are criminals? What would follow from it?

What would my friend do if they should pass a law in the United States that he couldn't enjoy the religious privileges which he enjoys today? And there has been many a time in the history of the world when he would have been burned at the stake for it, if he had held out that long, and I think he is one of the kind who would. What would he think if the religious fanatics of this country should say that he couldn't preach freedom of thought, freedom of religion, obedience to conscience? It would be easy to get sixty per cent to say that, if they ever got their minds on it. And they don't even need minds—they need votes, that's all. Do you suppose he would obey it? I don't believe

he would. Do you suppose he would think it was right because a bare majority said so?

And yet all that he has said, in every position he has taken upon this question, is encouraging the bigotry that has made this world run red with blood. I don't care what a man believes, and I am not interested in his habits. He seems to be tricked more than anybody else has by those two words, "white slavery." I wonder where he got them? Must have been at church. Of all the fool things ever put over in the United States that foolish talk was the worst. It never amounted to anything. Never was anything—just simply catchwords.

Social organization—control of men—regulating their diets and regulating their habits. For what? You are getting pretty close to the danger line when you begin it. And who are the ones that would do it? Have they the knowledge, the information—have they the scientific training to do it? Have they the wide tolerance, the spirit of "Live and let live," which ought to prevail with any and all before they undertake the regulation of their fellowman?

Now, my friend has tried to be fair about his statements, and. I want to be fair about mine. I know that all the human ills cannot be cured, cannot be regulated, etc. Some fellow will get drunk and run an automobile, and somebody will get killed. Well—he would have died anyhow, sooner or later. (Laughter.) My experience is that a very large majority of the human race die some time, and in some way. And I do not believe in picking out this thing or that thing or the other things, which may have caused some particular death, and destroying it in a moment of anger or a moment of fear, regardless of what consequences will follow from it.

He has fallen into the same error about

babies and wives of drunkards. Poor wives. Now, there is nothing personal about this, but I have seen lots of silly women who have told me that they would rather live with a man that drank than live with a prohibitionist. Some of them were prohibitionists' wives, too. The tears that have been shed over drunkards' wives were generally shed by prohibitionists.

Now, suppose you were in trouble and wanted a real, human-being friend, and you knew that here was a prohibitionist and over here was a fellow who drank. Which side would you take a chance on?

Haven't the prohibitionists been the joy-killers, since the very beginning of time? I cannot understand how my friend here, with his broad views and his intelligence, came to be one of them, except that he came down through the preacher line, and some of it lingers. For you know, "You may break, you may shatter the vase, if you will, but the preacher psychology sticks around still."

Am I right in saying that they are the joy killers, who look with envy upon people who have a good time? The people who would forbid you to drink, would forbid you to dance. would forbid you to go to the theatre. I will guarantee that half of the prohibitionists in this country would close the theatres on Sunday—no, nine-tenths of them would—and most of them would close them every day. They would forbid dancing. It is a question of joy.

Now, I don't mean to say that books were written and pictures were painted because of alcohol. But it takes a certain kind of a nervous system, a certain kind of imagination, a certain kind of temperament to write a book or paint a picture—a book that anybody will read or a picture that anybody will look at, and that same kind of a nervous system has

always craved some liquor, and always will. (Applause.)

If you could gradually kill off everybody who had ever drank, or wanted to, and leave the world to prohibitionists—my God, would any of us want to live in it? (Applause.)

CLOSING REBUTTAL

THE CHAIRMAN: Doctor Holmes will have ten minutes minutes now for his closing rebuttal. (Applause.)

DOCTOR HOLMES: I want, at the outset, to disassociate myself from these prohibitionists who want to take all the fun out of life. I can't deny that I am a preacher, although I have wished that I might do so, many, many times. But in spite of the fact that I am a preacher, I do believe in fun.

I am a prohibitionist simply in the interests of clear thought and clear understanding. Let me say that I believe in dancing. I always have had dancing at my church. I believe in the theatre and go to the theatre as often as I can find the time and the money. All my life I have been a devoted adherent of the theatre. I believe in music, in song—all the things that make up the happiness of life.

I want to say this—that in spite of the fact that I have been a prohibitionist for forty years, I have had the time of my life in this world. (Applause.) I have had all the fun that any one man could have.

Now, in these concluding moments, I want to take up just two points, and do it without the slightest unfairness, in any way, because Mr. Darrow has now no opportunity to reply.

Mr. Darrow, in his opening speech and in his rebuttal, made one very interesting point—the right of the individual to drink, to drink by himself, to drink alone. He pointed out the fact that he could drink without getting drunk, so why should anybody interfere with him, just because some other man, somewhere else, couldn't drink that way? He said this other

man ought to be handled as a hospital case. The inference, evidently, was "Why not handle each one on his own merits or demerits, and let it go at that?"

He pointed out that while the individual may drink, society does not drink, but that the Prohibition Amendment is an attempt to dictate to society and to say to society that it may not drink.

May I point out, in answer to that interesting proposition, that I do not believe that society drinks or that prohibition makes any attempt to deny to society the right to drink. All the drinking is done by individuals. Mr. Darrow points out that the individual can drink alone. I venture to point out that the individual, in the overwhelming majority of cases, drinks in society and in association with his fellow, and with the exception of a very few cases, it is quite impossible to find individuals in whom confirmed and fixed drinking habits do not sooner or later constitute a social problem. Just as soon as they constitute a social problem, at that point, according to my conviction, the time comes when society not only has the right but the duty to interfere and attempt to handle the problem.

I feel tempted to go on, just for a moment, outside of the question that is immediately before us, and perhaps introduce the ethical or the spiritual note. I do this, I suppose, because I am a preacher, at the danger of stirring the temper of those who are not interested in preachers and in the church. But there is an ethical and a spiritual point of view, about all of these matters, and I am inclined to believe that we never touch bed-rock until we come to these principles.

Mr. Darrow has said that he can drink with-

out getting drunk. I know other people of whom that can be said. But I want to say this, as a matter of moral appeal—and I don't think this is sanctimonious piety at all, but ethical idealism—that when a man discovers that the habit which he can safely handle, cannot be safely handled by the vast majority of his fellow-men, then, as a matter of personal sacrifice on behalf of the common good, it might be well for him to put aside his habit. (Applause.)

When St. Paul was asked by some of his followers if it was wrong to eat meat offered to idols, he said, "No. There is no moral question involved in eating meat offered to idols. Any man has a right to do it. It is all right." Then the inquirer went on to point out that there was a large section of society that believed it was wrong and that a bad effect entered into their lives if they did eat meat offered to idols. Whereupon, St. Paul went on to point out that a man should voluntarily refrain from eating meat offered to idols when it tempted his brother to offend.

To my mind, that is the fundamental ethical proposition of life—to put our lives on such a standard of conduct that we shall refuse to indulge in anything which tempteth our brother to offend.

There is just one thing more of which I want to speak, and then I am through, and that is this matter of individual liberty. I believe in liberty. But I refuse to take very seriously the ideal of liberty as applied to the manufacture and distribution of alcoholic beverages. And why? Because I don't discover any indication upon the part of those who believe in the liberty of the individual to drink, to test out that proposition on the plane of conduct which

has always been the test from the beginning of the world, namely, the plane of martyrdom.

I believe the issue of liberty is real when somebody is willing to be a martyr for the sake of that great ideal. But I look in vain through America at the present time to find any advocate of individual liberty, as opposed to the Eighteenth Amendment, who is willing to go to the stake of martyrdom for that ideal, namely, in this case, to go to jail.

Mr. Darrow asks what I would do if a law were passed which, as a matter of individual conviction on the issue of liberty, I do not believe in. It is not difficult to answer that question.

I was living in a time, during the war, when laws of that kind were passed, and among other laws, the law of conscription. I did not believe that the United States Government had any right, constitutional or spiritual, to pass a law making it obligatory for one man to commit murder upon his fellow-man. What I would have done, I don't know, because the test never came to me, because of that abominable reservation in the law that it didn't apply to ministers. But I do know what some men did who had exactly my conviction on the point. One beloved friend of mine—what did he do? When the law of conscription was applied to him, he deliberately violated the law. Was that all? Not at all. Having deliberately violated the law, as a matter of conscience, he went right down to the Federal Court in New York City and rose up before the Judge and said, "I have violated the conscription law. I am here to receive the punishment imposed for violation of that law." And the Judge sent him to prison for one year.

Now, when any man opposed to prohibition,

as a matter of individual conscience on the issue of liberty, will publicly violate it, then voluntarily go to a Court of Law and ask the Judge to send him to prison for violation of that law—then I shall believe in this issue.

Individual liberty has always been advanced, not by people who have hidden themselves behind curtains and windows and in secret chambers and in the cellars, and all that sort of thing, but by people who, as a matter of conscience, have violated the law and then come before the Courts to receive the punishment imposed under such circumstances. (Applause.)

The idea of martyrdom, as far as I can make out, has never entered into the agitation against prohibition. Lift it to that plane, make it a matter of conscientious sacrifice, let us see men laying down their liberty and their lives for the sake of an issue of liberty in this case—then, and then only, will I take this plea seriously.

In my concluding moment may I say this, without any reference to Mr. Darrow or any other individual, because I can associate him in my mind with many others who are dear to me as friends and comrades. I do not believe the issue is one of liberty. The issue on the side of those who are opposed to prohibition, as I said in my opening address, is fundamentally the issue of appetite, personal indulgence, the desire and insistence upon the right to enjoy themselves, no matter what the cost to society! (Applause.)

Now, as my final word, may I say this: I am glad that the debate of this afternoon was held and that we fought it out, so to speak, upon this issue of the philosophical approach to the problem of life. All arguments of give-and-take aside. I rejoice that we have had this oppor-

tunity of expressing and defining this issue. From the beginning of organized government there have been these two points of view—the point of view of the man who believes that society should be sacrificed to the individual, and the point of view of the man who believes that the individual should be sacrificed to society. The danger, on the one hand, is anarchy and the disruption of the social order. The danger, on the other hand, is tyranny and the repression and destruction of individual life. How those two points of view can be safely, wisely and beautifully adjusted, is the problem of government today, just as it was the problem of government years ago and will be the problem of government for years to come. It is well to ponder upon that problem and each one of us decide, in his individual case, to which philosophy of life he will commit his years. (Applause.)

THE CHAIRMAN: I am sure we are all agreed that the issues of this debate have been placed on high ground. The subject has certainly been sanely and intelligently treated, and in the name of the audience I desire to thank Mr. Darrow and Doctor Holmes for their splendid presentation. (Applause.)

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